

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

No. 7:10-CR-00043-F-1

No. 7:12-CV-00106-F

GARY LEE TIDD,	)	
Petitioner	)	
	)	
v.	)	<u>ORDER</u>
	)	
UNITED STATES OF AMERICA,	)	
Respondent.	)	

This matter is before the court following the Fourth Circuit Court of Appeals' unpublished opinion [DE-274]. In its opinion, the Fourth Circuit vacated this court's order dismissing Tidd's section 2255 motion and remanded the case for an evidentiary hearing on whether counsel neglected Tidd's direction to appeal.

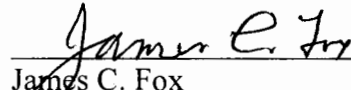
Because Tidd's section 2255 motion was previously dismissed by this court on initial review, the Government has not filed a response addressing Tidd's motion. Therefore, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5 of the Rules Governing § 2255 Proceedings, or to make such other response as appropriate to the above-captioned section 2255 motion. This response shall be made within **forty (40)** days of the filing of this order.

As noted, the Fourth Circuit remanded this case for an evidentiary hearing. Pursuant to Rule 8(c) of the Rules Governing Section 2255 Proceedings, when an evidentiary hearing is warranted, the court must appoint an attorney to represent a moving party who qualifies to have appointed counsel under 18 U.S.C. § 3006A. After the Government has filed its response to Tidd's section 2255 motion, the Clerk is DIRECTED to schedule an evidentiary hearing. The

Federal Public Defender is DIRECTED to provide representation in this action. The Clerk shall forward a copy of this order to the Federal Public Defender's Office.

SO ORDERED.

This, the 21<sup>st</sup> day of October, 2014

  
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James C. Fox  
Senior United States District Judge